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Common Carriers Limiting Their Liability.

C. & O. Ry. Co. v. Beasley, Va. Code 1887, Sec. 1296, and Code 1904, Sec. 1294c(25).

March 17th, 1906.

Editor of Va. Law Register.—Permit me to call your attention to an article on the subject of the liability of common carriers and their right to “limit” such liability to an agreed sum less than actual value, in event of loss by negligence (9 Va. Law Reg. 73), in connection with the recent decision of our court in the case of C. & O. Ry. Co. v. Beasley, Couch & Co., decided January 18 last, and reported in 52 S. E. Rep. 566, 11 Va. Law Reg. 901.

I call your especial attention to the dissenting opinion and the grounds upon which it is based, and the need of legislation in order to eliminate any such question as that made in the dissenting opinion. If the membership of the court should be changed for any reason the question decided would be again made, for the decision of the court by a bare majority would be no binding authority, and it is quite possible therefore that the above case may be reversed unless the legislature intervenes.

You will note that the dissenting opinion is based entirely upon the theory that the question involved was not open, but was controlled by Sec. 1296 of the Code as construed in R. & D. R. Co. v. Payne, 86 Va. 481; said section having been re-enacted after that decision without change, and the inference being that the legislature adopted the construction given in that case. But for this there is nothing in the dissenting opinion to suggest that there would have been any difference upon the question “as an original proposition.” The question is of wide interest and importance to shippers and the decision of the court should be put beyond the reach of future attack by an amendment of the statute. I hope therefore that the “Register” will, either in a note or editorially, urge this amendment.

Yours truly,

Wm. H. Werth.

Tazewell, Va.

Capitation Tax under the New Constitution, Sec. 173.

Editor of Va. Law Register.—Will you kindly give me your views as to the right of suffrage in Virginia in the event the General Assembly should fail or refuse to levy a State capitation tax “of and not exceeding \$1.50” as required by § 173, of the Constitution?

Under § 18 of the Constitution all males over 21 years of age who have been registered and paid their state poll taxes as required by the constitution, are entitled to vote:

Under § 20, all persons otherwise qualified under the Constitution are entitled to register and vote, if they have personally paid all